

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

1. Crl. Misc. No. M-27028 of 2015

Manpreet SinghPetitioner

versus

State of Punjab and anr. ...Respondents

2. Crl. Misc. No. M- 24630 of 2016

Baljit KaurPetitioner

versus

State of Punjab and anr. ...Respondents

Date of decision : 09.12.2016

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Rana, Advocate
for the petitioner in both cases

Mr. J.S. Riar, AAG, Punjab

Mr. C.L. Pawar, Advocate
for respondent No. 2 in both cases

RITU BAHRI, J. (Oral)

This order shall dispose of the above two petitions as common question of law and facts are involved in these petitions wherein prayer is for quashing of F.I.R No. 53 dated 09.05.2015, under Sections 498-A/406 IPC, registered at P.S. Balachaur, District S.B.S Nagar.

Petitioner-Manpreet Singh and Baljit Kaur are brother and sister of Jaswinder who performed marriage with Kulwinder Kaur-

complainant on 03.12.2013. One child was born out of this wedlock. Due to temperamental differences, F.I.R has been registered by the complainant against all the family members with regard to demand of dowry and cruelty.

Learned counsel for the petitioner submits that the present petitioner- Manpreet Singh is in Indian Army and he had only attended the marriage of his brother and thereafter, he left the house on 23.12.2013 and joined his unit on 27.12.2013. He was posted at Vishakhapatnam and thus, he stayed at home only from 03.12.2013 to 23.12.2013. There is no allegation that he made any demand of dowry or caused any cruelty. The complainant left the matrimonial house in the second week of June, 2014 and started living in the house of her parents without any reasonable cause. The petitioner-Manpreet Singh had availed 30 days casual leave w.e.f 27.06.2014 to 26.07.2014 and during this period, he never met with the complainant. Certificate of his leave period is Annexure P-2.

Learned counsel for the petitioner submits that petitioner-Baljit Kaur is married lady and had solemnized marriage with Ram singh on 24.11.2012 (P-2) and she attended the marriage of her brother on 03.12.2013 and after attending the marriage, she went away to her matrimonial home i.e Shergarh, Tehsil Amloh, District Fatehgarh Sahib and never came back to her parental home. Thereafter, she was blessed with a son on 31.08.2013. There is no allegation that the present petitioner has made any demand of dowry and there are only general allegations against her as well.

Learned counsel for the petitioner further submits that

respondent No. 2 could not adjust in the matrimonial home and had been creating nuisance and thereafter, father of petitioner disowned the complainant-respondent No. 2 as well as their son from their movable and immovable property (P-4)

Learned State counsel on instructions from ASI Mohan Lal has informed the Court that after investigation, challan has been presented against accused Ujaggar Singh, Jasbir Kaur and Baljit Kaur. After framing of charges, there are 15 prosecution witnesses and none have been examined so far.

Heard learned counsel for the parties.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of ***Preeti Gupta v. State of Jharkhand***, 2010 (7) SCC 667 whereby it has been observed that a general attempt is made by the complainant to rope the in-laws in criminal proceedings. This infact is a process to extract money on account of matrimonial dispute between the complainant and her husband. In para 30 to 35, it has been observed as under:-

30. It is a matter of common experience that most of these complaints under section 498A Indian Penal Code are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bonafide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of

family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection. Experience

reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.

A bare perusal of F.I.R shows that a compromise was effected between the parties and it was decided that the family of the petitioners will

take the complainant back to her in-laws house within 2-3 days but thereafter, the husband of the complainant came to the house of the complainant and stated that if she wants to stay in her matrimonial home, she have to bring car and other articles.

So, the allegations levelled by the complainant are all general in nature. Further, the petitioners are not the beneficiaries of the car and other articles, which as per the complainant demanded by the family of the petitioner, as petitioner Manpreet Singh is in Indian Army and is posted at Vishakapatnam and petitioner Baljit Kaur is a married lady and has not come to her parental home after she was blessed with a son.

Applying the ratio of the above mentioned judgment, F.I.R No. 53 dated 09.05.2015, under Sections 498-A/406 IPC, registered at P.S. Balachaur, District S.B.S Nagar., is quashed along with all consequential proceedings arising therefrom qua petitioners.

The petitions stand disposed of.

09.12.2016
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>